

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

LEXON INSURANCE COMPANY,

Plaintiff,

-against-

JAMES C. JUSTICE II,

Defendant.

Civil Action No. 3:23-cv-00772

Chief Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Barbara D. Holmes

JOINT MOTION REGARDING SCOPE OF ISSUES FOR TRIAL

Plaintiff Lexon Insurance Company (“Plaintiff” or “Lexon”) and Defendant James C. Justice II (“Defendant” and with Plaintiff, the “Parties”), by and through their undersigned counsel, hereby move the Court to order that (1) the only issue to be presented and determined at the trial of this case will be the amount of premium indebtedness owed to Lexon under Count I of the Complaint; and (2) the previously bifurcated issues of the amount of damages owed to Lexon under Counts II and III (which consist of attorney fees and other costs, expenses, and fees incurred in connection with this litigation) will be determined through the post-trial procedure set forth in Local Rule 54.01.

In support of this motion, the Parties state the following:

1. On May 7, 2024, the Court granted the Parties’ joint motion to bifurcate the determination of damages to which Lexon is entitled under Counts II and III from all other questions of liability and damages on the claims asserted in the Complaint. (ECF 50.)

2. On December 3, 2024, the Court granted in part Lexon’s Motion for Summary Judgment. In doing so, the Court found Defendant liable to Lexon on Counts I–III but determined that issues of material fact remained as to certain aspects of the damages calculations under Count

I. (ECF 68–69.) Specifically, as set forth in its order, the Court found that issues of material fact remain as to the amount of premium owed to Lexon and the term of the Amended Agreement. (ECF 68, at 19–22.)

3. On December 26, 2024, the Court granted the Parties’ joint motion to continue trial and set all remaining issues—including the premium indebtedness calculation under Count I and the issues subject to the Court’s bifurcation order—for a bench trial beginning August 19, 2025. (ECF 78.)

4. On April 3, 2025, the Parties jointly moved for an order setting discovery deadlines regarding the previously bifurcated issues of the damages Lexon is entitled to recover under Counts II and III. (ECF 84.) The Court granted that motion and entered a First Modified Case Management Order. (ECF 85.)

5. After the entry of the First Modified Case Management Order, Plaintiff’s counsel contacted Chambers and was advised that the Court would prefer to address post-trial the amount of attorney fees and other costs, expenses, and fees Lexon is entitled to recover using the procedure set forth in Local Rule 54.01.

6. The Parties have conferred and agree that the previously bifurcated issues of the amount of Lexon’s damages under Counts II and III can be more efficiently resolved through the post-trial process set forth in Local Rule 54.01.¹

¹ Local Rule 54.01 requires that “a motion for an award of attorney’s fees and related nontaxable expenses,” together with a memorandum of law and support for the amounts requested, be filed within 30 days from the entry of judgment. The Rule provides the opposing party 14 days to file objections and a memorandum explaining why the requested award is excessive, unwarranted, or unjust. Given the amounts at issue, Defendant expects that he may need more than 14 days to review and respond to Lexon’s documentation in support of its motion for attorney fees. Accordingly, Defendant reserves the right to move the Court for an extension of the 14-day deadline in Local Rule 54.01. Lexon reserves all rights with respect to any such request.

7. The Parties have therefore agreed that, with the Court's permission, the only issues they will present for determination at the August 19, 2025 bench trial will be those relating to the amount of premium owed to Lexon. The Parties will not present at that time any evidence or argument at trial regarding Counts II or III.

8. The Parties previously advised the Court that they estimated that the August 19, 2025 bench trial will last two to three days. (ECF 72, at footnote 1.) If the scope of the trial is narrowed as requested herein, the Parties estimate that the trial will last one to two days (and likely only one day).

WHEREFORE, the Parties respectfully request that the Court grant this joint motion and enter an order that (1) the only issue to be presented and determined at the trial of this case will be the amount of premium owed under Count I of the Complaint; and (2) the amount of Lexon's damages under Counts II and III will be determined through the post-trial procedure set forth in Local Rule 54.01.

Dated: May 29, 2025

Respectfully submitted,

/s/ W. Brantly Phillips, Jr.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 29, 2025, the foregoing document was filed via the Court's ECF system, which will send a notice of electronic filing to all ECF-registered counsel of record listed below:

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/s/ Peter C. Robison

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